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AUS920010583US1
APPEAL BRIEF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	
William Kress Bodin, <i>et al.</i>	§	Group Art Unit: 2154
	§	
Serial No.: 09/882,173	§	Examiner: Patel, Haresh N.
	§	
Filed: 06/14/2001	§	Atty Docket No.: AUS920010583US1
	§	
Title: Assignable Director Authority For	§	
Control Of Streaming Digital	§	
Content	§	

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Date January 12, 2006
Catherine Berglund
Catherine Berglund

AMENDED APPEAL BRIEF

Honorable Commissioner:

This is an Amended Appeal Brief filed pursuant to 37 CFR § 41.37 in response to the Notification of Non-Compliant Appeal Brief of December 12, 2005. The original Appeal Brief, which this filing amends, was filed on September 23, 2005, pursuant to 37 CFR § 41.37 in response to the Final Office Action of May 19, 2005 ("Final Office Action"), and pursuant to the Notice of Appeal filed July 21, 2005.

The Notification of Non-Compliant Appeal Brief advised of a failure to concisely summarize the subject matter defined in the independent claims as required by 37 CFR § 41.37(c)(1)(v). This Amended Appeal Brief corrects this failure below with an amended section entitled "SUMMARY OF CLAIMED SUBJECT MATTER."

REAL PARTY IN INTEREST

The real party in interest is the patent assignee, International Business Machines Corporation ("IBM"), a New York corporation having a place of business at Armonk, New York 10504.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

STATUS OF CLAIMS

Claims 1-33 are pending in the case. All pending claims are on appeal.

STATUS OF AMENDMENTS

No amendments were submitted after final rejection. The claims as currently presented are included in the Appendix of Claims that accompanies this Appeal Brief.

SUMMARY OF CLAIMED SUBJECT MATTER

Applicants provide the following concise summary of the claimed subject matter according to 37 CFR § 41.37(c)(1)(v), including references to the specification by page and line number and to the drawings by reference characters. There are three independent claims in the present case, claims 1, 12, and 23. Claim 1 is a method claim. Claims 12 and 23 claim respectively system and computer program product aspects of the method of claim 1. Claim 1 claims:

1. A method of assigning director authority in a system that streams digital content from a multiplicity of sources of digital information to a multiplicity of client devices under control of a multiplicity of

directors, the method implemented in conjunction with a network of digital computers, at least one of the digital computers comprising a content server upon which the steps of the method are implemented in computer memory and upon at least one computer processor, each director having director attributes, the content server including a store of director instruction records wherein each director instruction record represents one director instruction, the method comprising the steps of:

extracting for a director, in dependence upon the director's attributes, director instructions from the store of director instruction records; and

downloading the extracted director instructions to the director.

The means plus function claim elements permitted by 35 U.S.C. § 112, sixth paragraph for independent claim 12 are identified as follows. Note the precise correspondence with the elements of claims 1 and 23:

12. A system for assigning director authority for streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices under control of a multiplicity of directors, the system implemented in conjunction with a network of digital computers, at least one of the digital computers comprising a content server upon which the system is implemented in computer memory and upon at least one computer processor, each director having director attributes, the content server including a store of director instruction records wherein each director instruction record represents one director instruction, the system comprising:

means for extracting for a director, in dependence upon the director's attributes, director instructions from the store of director instruction records; and

means for downloading the extracted director instructions to the director.

The means plus function claim elements permitted by 35 U.S.C. § 112, sixth paragraph for independent claim 23 are identified as follows. Note the precise correspondence with the elements of claims 1 and 12:

23. A computer program product for assigning director authority for streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices under control of a multiplicity of directors, the system implemented in conjunction with a network of digital computers, at least one of the digital computers comprising a content server upon which the system is implemented in computer memory and upon at least one computer processor, each director having director attributes, the content server including a store of director instruction records wherein each director instruction record represents one director instruction, the system comprising:

a recording medium;

means, recorded on the recording medium, **for extracting** for a director, in dependence upon the director's attributes, director instructions from the store of director instruction records; and

means, recorded on the recording medium, **for downloading** the extracted director instructions to the director.

The portion of the original specification that is most pertinent to the claims of the present application is pages 23 – 27 and Figures 5 – 6. The subject matter of Claim 1 is summarized as follows with a description beginning at line 26 of page 23 in the original application. The reference numbers in parenthesis are reference characters of Figures 5 and 6. Claims 12 and 23 contain elements parallel to claim 1, so that the following concise summary is applicable also to claims 12 and 23. The acts described in this concise summary of the method of claim 1 are also the acts corresponding to each claimed function in the means plus functions claimed in claims 12 and 23 according to 35 U.S.C. § 112, sixth paragraph:

Turning now to Figure 5, an aspect of the invention is seen as a method of assigning director authority in a system that streams digital content from a multiplicity of sources (106) of digital information to a multiplicity of client devices (102) under control of a multiplicity of directors (104), the method implemented in conjunction with a network of digital computers, at least one of the digital computers comprising a content server (100) upon which the steps of the method are implemented in computer memory and upon at least one computer processor, each director having director attributes (514), the content server including a store of director instruction records (516) wherein each director instruction record represents one director instruction.

A further embodiment, illustrated in Figure 6, includes extracting (532) for a director, in dependence upon the director's attributes (514), director instructions (536) from a store of director instruction records (516). The illustrated embodiment includes downloading (518) the extracted director instructions to the director.

GROUND OF REJECTION

Claims 1-33 stand rejected under 35 U.S.C § 102(e) as being anticipated by Bridgman, *et al.* (U.S. Publication No. 2002/0087655 A1).

ARGUMENT

REJECTIONS FOR CLAIMS 1-33 UNDER 35 U.S.C § 102(e) AS BEING ANTICIPATED BY BRIDGMAN ARE IMPROPER

Claims 1-33 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Bridgman *et al.* (US 2002/0087655 A1). In rejecting claims 1-33, the Final Office Action at page 5 incorporates the arguments of the First Office Action of August 26, 2004 (“First Office Action”). Applicants’ filed a complete response to the First Office Action on December 17, 2004 (“Response to First Office Action”) demonstrating that Bridgman could not possibly anticipate claims 1-33 within the meaning of 35 U.S.C. § 102(e). Applicants’ therefore respond to the rejection of claims 1-33 in the Final Office Action with the arguments from Applicants’ Response to First Office Action showing that Bridgman does not anticipate a method, system, and product for streaming digital content from a multiplicity of sources of digital information to a multiplicity of directors in conjunction with a network of digital computers as claimed in the present application.

To anticipate the claims of the present invention under 35 U.S.C. § 102(e), two basic requirements must be met. The first requirement of anticipation is that Bridgman must disclose each and every element as set forth in Applicants’ claims. The second requirement of anticipation is that Bridgman must enable Applicants’ claims. Bridgman does not meet either requirement and therefore does not anticipate Applicants’ claims. Claims 1-33 are patentable and should be allowed. Applicants respectfully traverse each rejection individually below and request reconsideration of claims 1-33.

Bridgman Does Not Disclose Each and
Every Element of Applicants' Claims

Bridgman does not disclose each and every element of Applicants' claims. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The Office Action relies on paragraphs 13 and 14 of Bridgman for anticipation of the preamble of claim 1 of the present application, and the First Office Action relies upon paragraphs 58, 59, and 62 of Bridgman for anticipation of the elements of claim 1.

More particularly, paragraphs 13 and 14 of Bridgman and some elements of the Figures in Bridgman are said by the First Office Action to anticipate this portion of claim 1:

A method of assigning director authority in a system that streams digital content from a multiplicity of sources of digital information to a multiplicity of client devices under control of a multiplicity of directors, the method implemented in conjunction with a network of digital computers, at least one of the digital computers comprising a content server upon which the steps of the method are implemented in computer memory and upon at least one computer processor, each director having director attributes, the content server including a store of director instruction records wherein each director instruction record represents one director instruction ...

And paragraphs 58, 59, and 62 of Bridgman are said to anticipate this portion of claim 1:

extracting for a director, in dependence upon the director's attributes, director instructions from the store of director instruction records; and downloading the extracted director instructions to the director.

Paragraphs 13 and 14 of Bridgman represent the SUMMARY OF THE INVENTION in Bridgman. Paragraph 13 summarizes the invention of Bridgman as:

... a voice interface using voice recognition input and speech synthesis output that allows the driver to access information by conversing with the auto client device while continuing to operate the vehicle without recourse to normally used computer interface means ...

Paragraph 14 of Bridgman further summarizes as the invention of Bridgman as one in which, "... speech is transformed into digital text data at the client side and transmitted over a data link." Clearly neither paragraph 13 nor 14 of Bridgman has anything whatsoever to do with "... assigning director authority in a system that streams digital content from a multiplicity of sources of digital information to a multiplicity of client devices under control of a multiplicity of directors ..." and so on as claimed in the preamble of claim 1 of the present application.

Paragraph 58 of Bridgman describes a method of generating a speech markup language document from an HTML document. Paragraph 59 of Bridgman describes the general operation of Java servletsTM as "... an applet running on the server instead of the client." Paragraph 62 of Bridgman describes the general operation of a Wireless Domino Access[®] server as a suite of programs which enable access to data residing in selected Lotus Domino[®] databases ...". Clearly neither paragraph 58 nor 59 nor 62 discloses anything having anything whatsoever to do with the elements of claim 1 in the present application, extracting and downloading director instructions to a director.

Because Bridgman discloses nothing having anything to do with claim 1 of the present application, Bridgman does not teach each and every element of Applicants' claims 1. Independent claims 12 and 23 recite system and computer program product claims corresponding to the method claimed in independent claim 1. Rejected claims 2-11, 13-22, and 24-33 depend from independent claims 1, 12, and 23 and include all of the limitations of these independent claims. If Bridgman does not anticipate the elements of

claim 1, and it does not, then all of the claims of the present application are patentable. All rejections of all claims in the present application should be withdrawn.

Bridgman Is Not An Enabling
Disclosure of Applicants' Claims

There are two required aspects of anticipation. Not only must Bridgman disclose each and every element of the claims of the present invention within the meaning of *Verdegaal* in order to anticipate the claims, but also Bridgman must be an enabling disclosure of the claims of the present invention within the meaning of *In re Hoeksema*. The Appellants' claims in *Hoeksema* were rejected because an earlier patent disclosed a close structural similarity to appellant's chemical compound. The court in *Hoeksema* stated: "We think it is sound law, consistent with the public policy underlying our patent law, that before any publication can amount to a statutory bar to the grant of a patent, its disclosure must be such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention." *In re Hoeksema*, 399 F.2d 269, 273, 158 USPQ 596, 600 (CCPA 1968). The *Hoeksema* court contrasted the so-called 'Von Bramer doctrine' with the requirement for a reference to be enabling:

In *In re Brown*, 51 CCPA 1254, 329 F.2d 1006, 141 USPQ 245 (1964), this court discussed *In re Von Bramer*, 29 CCPA 1018, 127 F.2d 149, 53 USPQ 345 (1942), commenting that that opinion should not be construed to encompass what had come to be called the "Von Bramer doctrine." There we stated, 51 CCPA at 1257, 329 F.2d at 1009, 141 USPQ at 247:

This doctrine which appears to have resulted from *In re Von Bramer et al.*, *supra*, seems over a period of years to have been tailored in some quarters to a principle which defeats the novelty of a chemical compound on the basis of a mere printed conception or a mere printed contemplation of a chemical "compound" irrespective of the fact that the

so-called "compound" described in the reference is not in existence or that there is no process shown in the reference for preparing the compound, or that there is no process known to a person having ordinary skill in the relevant art for preparing the compound. In other words, a mere formula or a mere sequence of letters which constitute the designation of a "compound," is considered adequate to show that a compound in an application before the Patent Office, which compound is designated by the same formula or the same sequence of letters, is old. We do not think that the Von Bramer case should be so construed.

To the extent that anyone may draw an inference from the Von Bramer case that the mere printed conception or the mere printed contemplation which constitutes the designation of a "compound" is sufficient to show that such a compound is old, regardless of whether the compound is involved in a 35 USC 102 or 35 USC 103 rejection, we totally disagree.

The meaning of *Hoeksema* for the present case is that it is insufficient as anticipation under 35 U.S.C. § 102(e) for Bridgman to express a "mere printed conception" or "mere printed contemplation" of some of the elements of the claims of the present application. The test for sufficiency of enabling disclosure is whether it places an invention in the possession of a person of ordinary skill in the art.

Paragraphs 13 and 14 of Bridgman are expressly summary material, making no pretense to be an enabling disclosure of anything. Paragraphs 58, 59, and 62 of Bridgman, being as they are respectively a description of speech markup language document development, Java servlets, and Wireless Domino Access servers, cannot possibly convey an enabling description of assigning director authority as claimed in the present application. In fact, none of the terms "digital content," "director authority," "digital information," "director instruction," "director's attributes," and "director instruction records" occurs anywhere in

Bridgman, not once. Rejections under 35 U.S.C. § 102 based on Bridgman should be withdrawn, and independent claims 1, 12, and 23, as well as the rejected dependent claims 2-11, 13-22, and 24-32 should be allowed.

Conclusion

To serve as a basis of rejection under 35 U.S.C. § 102(e), Bridgman must disclose and enable each and every element of claim 1 of the present application. Because Bridgman does not disclose or enable any of the elements of claim 1 in the present application, none of the claims of the present application can be rejected in reliance on Bridgman. The rejection of claims 1-33 should be withdrawn and the case should be allowed.

**APPLICANTS' RESPONSE TO EXAMINER'S RESPONSE TO APPLICANTS'
RESPONSE TO THE FIRST OFFICE ACTION DATED AUGUST 26, 2004**

In response to Applicants' Response to First Office Action, the Final Office Action argues that Bridgman discloses the each and every limitation of independent claim 1. In addition, the Final Office Action also argues that preamble of claim 1 is to be accorded no patentable weight. The Final Office Action also argues that Bridgman is an enabling disclosure because Bridgman is in the field of Applicants' endeavor or reasonably pertinent to the particular problem with which the Applicants were concerned. Applicants' respectfully traverse each rejection of claims 1-33 under 35 U.S.C. § 102(e) and respond below in detail to the new arguments set forth in the Final Office Action.

Bridgman Does Not Disclose Each And
Every Limitation Of Claim 1

The Final Office Action at pages 2 thru 4 again argues that Bridgman anticipates claim 1 under 35 U.S.C. § 102(e). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2

USPQ2d 1051, 1053 (Fed. Cir. 1987). In Applicants' Response to First Office Action, Applicants demonstrated that Bridgman does not disclose each and every element of claim 1 because the limitations asserted to be disclosed in Bridgman were, in fact, not disclosed in Bridgman. The Final Office Action argues in response to Applicants' earlier demonstration that Bridgman does disclose each and every limitation, citing new references in Bridgman.

Applicants propose that the new references to Bridgman in the Final Office Action however still do not disclose each and every element as set forth in claim 1. The Final Office Action at page 2, for example, using a new reference from Bridgman, states that paragraphs 22 and 45 of Bridgman disclose a system that "streams digital content..." What paragraphs 22 and 45 of Bridgman actually disclose is "processing the speech input (e.g., transforming speech into digital data using speech recognition) and synthesizing the speech output at the client side..." and that, "Digital data may also be transmitted over an analog line..." Nowhere in Bridgman is the speech input transmitted in "streams" as claimed in the present application. Transforming speech into digital data using speech recognition and transmitting the digital data of Bridgman is not a system that streams digital content as claimed in the present application.

The Final Office Action at page 2, using another new reference from Bridgman, states that paragraphs 23 and 44 of Bridgman disclose "a multiplicity of directors..." What paragraphs 23 and 44 of Bridgman actually disclose is that "The system 100 includes a source of content information 110, a proxy server 120, a wireless communications device/link 130, and a mobile client 140..." and plurality of choices for a "system's wireless communication link 130" such as, for example, AMPS, CDPD, GSM, and PCS 1900. The system 100 and choices for its wireless communications link of Bridgman is not a multiplicity of directors as claimed in the present application.

The Final Office Action at page 2, using a further new reference from Bridgman, states that paragraphs 24 and 29 of Bridgman disclose "from a multiplicity of sources..." What paragraphs 24 and 29 actually disclose is that, "One source of content 110 could be

a Lotus Domino server...” and “...content may include the capability to perform transactions 110c with commercial entities.... Content may also be in the form a database for navigation applications....”. The one source of content, its capabilities, and its form of Bridgman is not “from a multiplicity of sources” as claimed in the present application.

The Final Office Action at page 3, using a still further new reference from Bridgman, states that paragraph 59 of Bridgman discloses “director authority....” What paragraph 59 of Bridgman actually discloses is the general operation of Java servlets_{TM} as “... an applet running on the server instead of the client.” The general operation of Java servlets_{TM} as “... an applet running on the server instead of the client” of Bridgman is not director authority as claimed in the present application.

The Final Office Action at page 3, using an even further new reference from Bridgman, states that paragraphs 22 and 45 of Bridgman disclose “in a system...digital content....” What paragraphs 22 and 45 of Bridgman actually disclose is “processing the speech input (e.g., transforming speech into digital data using speech recognition) and synthesizing the speech output at the client side...” and that, “Digital data may also be transmitted over an analog line....” Transforming speech into digital data using speech recognition and transmitting the digital data of Bridgman is not “in a system...digital content...” as claimed in the present application.

The Final Office Action at page 3, using still another new reference from Bridgman, states that paragraphs 22 and 45 of Bridgman disclose “of digital information....” What paragraphs 22 and 45 of Bridgman actually disclose is “processing the speech input (e.g., transforming speech into digital data using speech recognition) and synthesizing the speech output at the client side...” and that, “Digital data may also be transmitted over an analog line....” Transforming speech into digital data using speech recognition and transmitting the digital data of Bridgman is not “of digital information...” as claimed in the present application.

The Final Office Action at page 3, using even another new reference from Bridgman, states that paragraph 46 of Bridgman discloses “to a multiplicity of client devices....” What paragraph 46 of Bridgman actually discloses is “the exemplary mobile client 140....” The single exemplary mobile client of Bridgman is not “to a multiplicity of client devices...” as claimed in the present application.

The Final Office Action at page 3, using another new reference from Bridgman, states that paragraphs 23 and 44 of Bridgman disclose “under control of a multiplicity of directors....” What paragraphs 23 and 44 of Bridgman actually disclose is that, “The system 100 includes a source of content information 110, a proxy server 120, a wireless communications device/link 130, and a mobile client 140...” and a plurality of choices for a “system’s wireless communication link 130” such as, for example, AMPS, CDPD, GSM, and PCS 1900.

The Final Office Action at page 4, using a still further new reference from Bridgman, states that paragraph 58 of Bridgman discloses “director instructions....” What paragraph 58 of Bridgman actually discloses is a method of generating a speech markup language document from an HTML document. The method of generating a speech markup language document from an HTML document of Bridgman is not director instructions as claimed in the present application.

The Final Office Action at page 4, using another new reference from Bridgman, states that paragraph 63 of Bridgman discloses “director attributes....” What paragraph 63 of Bridgman actually discloses is “Common Gateway Interface (CGI) programs 400 designed to run on a Lotus Domino server, each program being capable of rendering specific Domino content in a specific target markup language.” The CGI programs of Bridgman are not director attributes as claimed in the present application.

The Final Office Action at page 4, using another new reference from Bridgman, states that paragraph 51 of Bridgman discloses a “director instructions record....” What paragraph 51 of Bridgman actually discloses is “a News Service system includes

information retrieval from the Internet, content transcoding, and the various (e.g. IBM) server technologies.” The news service system of Bridgman is not a director instructions record as claimed in the present application.

The Final Office Action at page 4, using another new reference from Bridgman, states that Bridgman at paragraph 58 discloses “extracting” and “director instructions....” Applicants explained in the First Office Action at page 21 that paragraph 58 of Bridgman describes a method of generating a speech markup language document from an HTML document. The method of generating a speech markup language document from an HTML document of Bridgman does not disclose “extracting” and “director instructions” as claimed in the present application.

The Final Office Action at page 4, using another new reference from Bridgman, states that Bridgman at paragraph 59 discloses “downloading....” What paragraph 59 of Bridgman actually discloses is the general operation of a Java servlet™ as “... an applet running on the server instead of the client.” The general operation of a Java servlet™ does not disclose downloading as claimed in the present application.

The Final Office Action at page 4, using another new reference from Bridgman, states that Bridgman at paragraph 23 discloses “to a director....” What paragraph 23 of Bridgman actually discloses is that, “The system 100 includes a source of content information 110, a proxy server 120, a wireless communications device/link 130, and a mobile client 140....” The system of Bridgman that includes a source of content information, a proxy server, a wireless communications device/link, and a mobile client does not disclose “to a director” as claimed in the present application.

Even in light of the new references cited in the Final Office Action, Bridgman still does not disclose each and every limitation of claim1 as required in *Verdegaal Bros.* The new references of Bridgman cited in the Final Office Action still do not disclose “...assigning director authority in a system that streams digital content from a multiplicity of sources of digital information to a multiplicity of client devices under control of a multiplicity of

directors...” and so on as claimed in the preamble of claim 1 of the present application. The new references of Bridgman cited in the Final Office Action also do not disclose “...extracting for a director, in dependence upon the director’s attributes, director instructions from the store of director instruction records; and downloading the extracted director instructions to the director” as claimed in the body of claim 1 of the present application. Bridgman therefore cannot anticipate Applicants’ claims 1 under 35 U.S.C. § 102(e) even in light of the new references cited in the Final Office Action.

Bridgman does not disclose all the limitation of Applicants’ claim 1. Independent claims 12 and 23 recite system and computer program product claims corresponding to the method claimed in independent claim 1. Rejected claims 2-11, 13-22, and 24-33 depend from independent claims 1, 12, and 23 and include all of the limitations of those independent claims. If Bridgman does not anticipate the elements of claim 1, and it does not, then all of the claims of the present application are patentable. Applicants traverse each rejection individually of claims 1-33 and request claims 1-33 be allowed.

The Preamble Of Claim 1 Is To Be
Accorded Patentable Weight

The Final Office Action declines to grant patentable weight to the limitations in the preamble of claim 1 stating:

the recitation of the subject matter contained in the preamble, i.e.,
“assigning director authority in a system digital content from a multiplicity
of sources of digital information to a multiplicity of client devices under
control of a multiplicity of directors”, has not been given patentable
weight because the recitation occurs in the preamble.

The Final Office Action effectively takes the position that a recitation in a preamble is to be given no patentable weight as a blanket rule. The Final Office Action at page 3 then

goes on to cite with approval *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951) to the effect that:

A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone.

Applicants propose that the rule so stated in negative form is correct. Stated positively the rule is: A preamble is accorded patentable weight where it recites more than merely the purpose of a process or the intended use of a structure and where the body of the claim depends on the preamble for completeness. Claim 1 of the present application claims:

1. A method of assigning director authority in a system that streams digital content from a multiplicity of sources of digital information to a multiplicity of client devices under control of a multiplicity of directors, the method implemented in conjunction with a network of digital computers, at least one of the digital computers comprising a content server upon which the steps of the method are implemented in computer memory and upon at least one computer processor, each director having director attributes, the content server including a store of director instruction records wherein each director instruction record represents one director instruction, the method comprising the steps of:

extracting for a director, in dependence upon the director's attributes, director instructions from the store of director instruction records; and

downloading the extracted director instructions to the director.

Clearly the preamble of claim 1 of the present application goes far beyond merely reciting the purpose of a process or the intended use of a structure. In addition, the body of the claim depends on the preamble for completeness because claim elements in the body of the claim, “the director’s attributes” and “the store of director instructions,” depend upon recitations in the preamble for antecedent basis. In this circumstance, therefore, it is in fact correct to grant patentable weight to the preamble. Applicants respectfully traverse the Final Office Action’s failure to grant patentable weight to the preamble of claim 1.

Bridgman Is Not An Enabling Disclosure

In response to Applicants’ argument in Applicants’ Response to the First Office Action that Bridgman is not an enabling disclosure, the Final Office Action argues at bottom page 3 and top page 4 that Bridgman is an enabling disclosure of the elements of the claims of the present application because Bridgman is analogous art, art in the field of Applicants’ endeavor or reasonably pertinent to the particular problem with which the Applicants were concerned.

Applicants propose in response that whether a reference is analogous is irrelevant to the issue whether the reference is enabling. Non-analogous art is a defense to obvious under 35 U.S.C. § 103. MPEP § 2141.01. The test for whether a reference is an enabling disclosure is whether the reference places an invention in the possession of a person of ordinary skill in the art. *In re Hoeksema*, 399 F.2d 269, 273, 158 USPQ 596, 600 (CCPA 1968).

As Applicants demonstrated in Applicants’ Response to First Office Action, Bridgman does not place the invention of the present application in the possession of a person of ordinary skill in the art. The present application claims methods, systems, and products for assignable director authority for streaming digital content. Bridgman at paragraphs

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13 and 14 generally discloses an automobile client device that transmits text data and provides a voice interface that transforms speech into text data and synthesizes speech from text data. The automobile client device of Bridgman has nothing whatsoever to do with assignable director authority for streaming digital content as claimed in the present application. Bridgman cannot therefore possibly convey an enabling description of assigning director authority as claimed in the present application. Applicants respectfully traverse the argument of the Final Office Action that Bridgman is an enabling disclosure.


Conclusion

Applicants traverse each of the arguments in the Final Office Action responding to Applicants' Response to First Office Action. In response to the Final Office Action, Applicants argue that Bridgman does not disclose each and every limitation of independent claim 1. Furthermore, Applicants argue that the preamble of claim 1 is to be accorded patentable weight. Applicants also argue that Bridgman is not an enabling disclosure. Bridgman does not anticipate the claims of the present invention. Applicants' respectfully traverse each rejection of claims 1-33 under 35 U.S.C. § 102(e).

In view of the forgoing arguments, reversal on all grounds of rejection is requested.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 50-3082 for any fees required or overpaid.

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**APPENDIX OF CLAIMS
ON APPEAL IN PATENT APPLICATION OF
WILLIAM KRESS BODIN, *ET AL.*, SERIAL NO. 09/882,173**

CLAIMS

What is claimed is:

1. A method of assigning director authority in a system that streams digital content from a multiplicity of sources of digital information to a multiplicity of client devices under control of a multiplicity of directors, the method implemented in conjunction with a network of digital computers, at least one of the digital computers comprising a content server upon which the steps of the method are implemented in computer memory and upon at least one computer processor, each director having director attributes, the content server including a store of director instruction records wherein each director instruction record represents one director instruction, the method comprising the steps of:

extracting for a director, in dependence upon the director's attributes, director instructions from the store of director instruction records; and

downloading the extracted director instructions to the director.
2. The method of claim 1 further comprising logging in a director to the content server and determining the director's attributes, determining the director's attributes further comprising reading a store of director records wherein each director record represents one director, each director record comprising a director identification.
3. The method of claim 2 wherein each director record further comprises a director

authority.

4. The method of claim 1 wherein:

the director attributes include director authority,

at least one director has administrative director authority, and

administrative director authority includes authority to edit the director instruction records.

5. The method of claim 1, wherein the director attributes include director authority, the method further comprising editing the director instruction records, wherein the editing is carried out through a director having administrative director authority.

6. The method of claim 1 wherein the director attributes comprise a director identity, wherein the director instruction records comprise a director instruction identity, and wherein extracting director instructions comprises the further steps of:

determining a director identity; and

extracting from the store of director instructions director instructions having director instruction identities equal to the director identity.

7. The method of claim 1 wherein the director's attributes comprise a director authority, wherein the director instruction records comprise a director instruction authority, and wherein extracting director instructions comprises the further steps of:

determining a director authority; and

extracting from the store of director instructions director instructions having director instruction authorities equal to the director authority.

8. The method of claim 1, wherein the director instructions comprise URLs.
9. The method of claim 1, wherein the director instructions comprise URLs and anchors.
10. The method of claim 1 further comprising encoding the extracted director instructions into hyperlinks in an HTML document.
11. The method of claim 1 wherein downloading the extracted director instructions to the director comprises downloading an HTML document to the director.
12. A system for assigning director authority for streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices under control of a multiplicity of directors, the system implemented in conjunction with a network of digital computers, at least one of the digital computers comprising a content server upon which the system is implemented in computer memory and upon at least one computer processor, each director having director attributes, the content server including a store of director instruction records wherein each director instruction record represents one director instruction, the system comprising:

means for extracting for a director, in dependence upon the director's attributes, director instructions from the store of director instruction records; and

means for downloading the extracted director instructions to the director.

13. The system of claim 12 further comprising means for logging in a director to the content server and means for determining the director's attributes, means for

determining the director's attributes further comprising means for reading a store of director records wherein each director record represents one director, each director record comprising a director identification.

14. The system of claim 13 wherein each director record further comprises a director authority.

15. The system of claim 12 wherein:

the director attributes include director authority,

at least one director has administrative director authority, and

administrative director authority includes authority to edit the director instruction records.

16. The system of claim 12, wherein the director attributes include director authority, the system further comprising means for editing the director instruction records, wherein the means for editing is utilized through a director having administrative director authority.

17. The system of claim 12 wherein the director attributes comprise a director identity, wherein the director instruction records comprise a director instruction identity, and wherein means for extracting director instructions further comprises:

means for determining a director identity; and

means for extracting from the store of director instructions director instructions having director instruction identities equal to the director identity.

18. The system of claim 12 wherein the director's attributes comprise a director

authority, wherein the director instruction records comprise a director instruction authority, and wherein means for extracting director instructions further comprises:

means for determining a director authority; and

means for extracting from the store of director instructions director instructions having director instruction authorities equal to the director authority.

19. The system of claim 12, wherein the director instructions comprise URLs.
20. The system of claim 12, wherein the director instructions comprise URLs and anchors.
21. The system of claim 12 further comprising means for encoding the extracted director instructions into hyperlinks in an HTML document.
22. The system of claim 12 wherein means for downloading the extracted director instructions to the director comprises means for downloading an HTML document to the director.
23. A computer program product for assigning director authority for streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices under control of a multiplicity of directors, the system implemented in conjunction with a network of digital computers, at least one of the digital computers comprising a content server upon which the system is implemented in computer memory and upon at least one computer processor, each director having director attributes, the content server including a store of director instruction records wherein each director instruction record represents one director instruction, the system comprising:

a recording medium;

means, recorded on the recording medium, for extracting for a director, in dependence upon the director's attributes, director instructions from the store of director instruction records; and

means, recorded on the recording medium, for downloading the extracted director instructions to the director.

24. The computer program product of claim 23 further comprising means, recorded on the recording medium, for logging in a director to the content server and means, recorded on the recording medium, for determining the director's attributes, means for determining the director's attributes further comprising means for reading a store of director records wherein each director record represents one director, each director record comprising a director identification.

25. The computer program product of claim 23 wherein each director record further comprises a director authority.

26. The computer program product of claim 23 wherein:

the director attributes include director authority,

at least one director has administrative director authority, and

administrative director authority includes authority to edit the director instruction records.

27. The computer program product of claim 23, wherein the director attributes include director authority, the computer program product further comprising means, recorded on the recording medium, for editing the director instruction

records, wherein the means for editing is utilized through a director having administrative director authority.

28. The computer program product of claim 23 wherein the director attributes comprise a director identity, wherein the director instruction records comprise a director instruction identity, and wherein means for extracting director instructions further comprises:

means, recorded on the recording medium, for determining a director identity; and

means, recorded on the recording medium, for extracting from the store of director instructions director instructions having director instruction identities equal to the director identity.

29. The computer program product of claim 23 wherein the director's attributes comprise a director authority, wherein the director instruction records comprise a director instruction authority, and wherein means for extracting director instructions further comprises:

means, recorded on the recording medium, for determining a director authority; and

means, recorded on the recording medium, for extracting from the store of director instructions director instructions having director instruction authorities equal to the director authority.

30. The computer program product of claim 23, wherein the director instructions comprise URLs.

31. The computer program product of claim 23, wherein the director instructions comprise URLs and anchors.

32. The computer program product of claim 23 further comprising means, recorded on the recording medium, for encoding the extracted director instructions into hyperlinks in an HTML document.
33. The computer program product of claim 23 wherein means for downloading the extracted director instructions to the director comprises means for downloading an HTML document to the director.